

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Galaxy Telecom, L.P.)	File No. EB-02-TS-122
)	
Operator of Cable Systems in the States of)	
)	
Alabama, Colorado, Florida, Georgia, Illinois,)	
Kansas, Kentucky, Louisiana, Missouri, Mississippi,)	
Nebraska, South Carolina, South Dakota, Tennessee,)	
Texas)	
)	
Request for Waiver of Section 11.11(a) of the)	
Commission's Rules)	

ORDER

Adopted: June 18, 2002

Released: June 21, 2002

By the Chief, Technical and Public Safety Division, Enforcement Bureau:

1. In this *Order*, we grant Galaxy Telecom, L.P., (“Galaxy”) temporary, 36-month waivers of Section 11.11(a) of the Commission’s Rules (“Rules”) for the 217 cable systems listed in the Attachment A. Section 11.11(a) requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level Emergency Alert System (“EAS”) messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.¹

2. The Cable Act of 1992 added new Section 624(g) to the Communications Act of 1934 (“Act”), which requires that cable systems be capable of providing EAS alerts to their subscribers.² In 1994, the Commission adopted rules requiring cable systems to participate in EAS.³ In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems.⁴ The

¹ 47 C.F.R. § 11.11(a).

² Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that “each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations” 47 U.S.C. § 544(g).

³ *Amendment of Part 73, Subpart G, of the Commission’s Rules Regarding the Emergency Broadcast System, Report and Order and Further Notice of Proposed Rule Making*, FO Docket Nos. 91-171/91-301, 10 FCC Rcd 1786 (1994) (“*First Report and Order*”), *reconsideration granted in part, denied in part*, 10 FCC Rcd 11494 (1995).

⁴ *Amendment of Part 73, Subpart G, of the Commission’s Rules Regarding the Emergency Broadcast System, Second Report and Order*, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997) (“*Second Report and*

Commission declined to exempt small cable systems from the EAS requirements, concluding that such an exemption would be inconsistent with the statutory mandate of Section 624(g).⁵ However, the Commission extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.⁶ In addition, the Commission stated that it would grant waivers of the EAS rules to small cable systems on a case-by-case basis upon a showing of financial hardship.⁷ The Commission indicated that waiver requests must contain at least the following information: (1) justification for the waiver, with reference to the particular rule sections for which a waiver is sought; (2) information about the financial status of the requesting entity, such as a balance sheet and income statement for the two previous years (audited, if possible); (3) the number of other entities that serve the requesting entity's coverage area and that have or are expected to install EAS equipment; and (4) the likelihood (such as proximity or frequency) of hazardous risks to the requesting entity's audience.⁸

3. On April 2, 2002, Galaxy filed a request for temporary waivers of Section 11.11(a) for 234 small rural cable systems in 15 states. Galaxy requests waivers ranging from 18 months to 36 months based on system size. In particular, Galaxy requests 36-month temporary waivers for the 217 cable systems listed in Attachment A of this Order. Galaxy indicates that these cable systems serve approximately between 9 and 948 subscribers. In further support of its waiver requests, Galaxy states that it is currently operating under Chapter 11 bankruptcy pursuant to a Court-approved plan of reorganization.⁹ Based on price quotes provided by EAS equipment manufacturers, Galaxy estimates that it would cost approximately \$10,000 per headend, for a total of over \$2.3 million to install EAS equipment at these systems. Galaxy asserts that this cost will impose a substantial financial hardship on it and provides its financial statements for 2000 and 2001 in support of this assertion. In addition, Galaxy submits that its subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. In this regard, Galaxy notes that its subscribers currently have access to national EAS messages from several sources, including from Galaxy's own cable systems. Galaxy also asserts that its subscribers will have access to EAS information through over-the-air reception of broadcast television and radio stations. Finally, Galaxy expects to be able to fund the EAS equipment and installation for its largest system by April 2004, with the remainder of its systems being brought into compliance on a phased-in schedule by October 2005.

Order”).

⁵ *Id.* at 15512-13.

⁶ *Id.* at 15516-15518.

⁷ *Id.* at 15513.

⁸ *Id.* at 15513, n. 59.

⁹ On October 31, 2001, Galaxy Telecom, L.P. and Galaxy Telecom Capital Corp. filed for Chapter 11 bankruptcy with the United States Bankruptcy Court, the Eastern District of Missouri.

4. Based upon our review of the financial data and other information submitted by Galaxy we conclude that a temporary, 36-month waiver of Section 11.11(a) for the 217 systems is warranted.¹⁰ In particular, we find that the estimated \$2.3 million cost of EAS equipment for these cable systems could impose a financial hardship on Galaxy.

5. We note that the Commission recently amended the EAS rules to permit cable systems serving fewer than 5,000 subscribers to install FCC-certified decoder-only units, rather than both encoders and decoders, if such a device becomes available.¹¹ Based on comments from equipment manufacturers, we anticipate that such a decoder-only system could result in significant cost savings to small cable systems.¹²

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,¹³ Galaxy Telecom, L.P. **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2005 for the cable systems listed in Attachment A.

7. **IT IS FURTHER ORDERED** that Galaxy Telecom, L.P. place a copy of this waiver in its system files.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for Galaxy Telecom, L.P. Christopher C. Cinnamon, Esq., Cinnamon Mueller, 307 North Michigan Avenue, Suite 1020, Chicago, Illinois 60601.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey
Chief, Technical and Public Safety Division
Enforcement Bureau

¹⁰ The waivers will extend 36 months from October 1, 2002, until October 1, 2005. Galaxy Telecom, L.P. also specifically requested waiver of the testing and monitoring requirements of the EAS rules for the 217 systems. We clarify that the waivers we are granting also encompass the EAS testing and monitoring requirements.

¹¹ *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, EB Docket 01-66, FCC 02-64 at ¶ 71 (released February 26, 2002).

¹² One manufacturer estimated that an EAS decoder-only system can reduce the cost by 64% over what a cable operator would spend for an encoder/decoder unit. *Id.* at ¶ 70.

¹³ 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.

Attachment A

Galaxy Telecom, L.P.

Cable Systems:

Alabama

Butler, Alabama
Grove Hill/Whatley Alabama
Uniontown, Alabama
Nauvoo, Alabama
Pine Hill, Alabama
Arley, Alabama
Jasper/Pineywood, Alabama
Thomaston, Alabama
Mexia, Alabama
Cuba, Alabama
Orville, Alabama
Pennington, Alabama

Colorado

Limon, Colorado
Larimer Co., Colorado
Gilpin/Jefferson/Boulder, Colorado
Lyons, Colorado
Ordway, Colorado
Hugo, Colorado
Cheyenne Wells, Colorado
Weld Co., Colorado
Holly, Colorado
Eads, Colorado
Walsh, Colorado
Westcliffe, Colorado
Granada, Colorado
Stratton, Colorado
Flagler, Colorado
Deertrail, Colorado
Wiley, Colorado

Florida

Clay Co./Middleburg, Florida
Spruce Creek South, Florida
Lawtey, Florida
Penney Farms, Florida
W. Putnam Co./Hawthorne, Florida
Pedro/Summerfield, Florida

Bronson, Florida
Hernando Co., Florida
E Lake Co/Paisley/Deland, Florida
Sandpiper MHP/Umatilla, Florida
Hampton/Stark, Florida
E Putnam Co., Florida
Live Oak, Florida
Sharpes Ferry, Florida
Smith Lake Shores MHP, Florida

Georgia

Sanford/Clarke, Georgia
Arnoldsville/Clark Co., Georgia
Lincolnton Co., Georgia
Avalon City, Georgia
Bishop City, Georgia
Rayle, Georgia
Raysville, Georgia

Illinois

Lake of Egypt/Johnson Co., Illinois
Carrier Mills, Illinois
Jackson Co., Illinois
Alexander Co., Illinois
Rosiclare, Illinois
Freeman Spur, Illinois
Vienna, Illinois
Galatia, Illinois
Pittsburg, Illinois
Golconda, Illinois

Kansas

Marion, Kansas
Minneapolis, Kansas
Hillsboro, Kansas
Rossville, Kansas
Chapman, Kansas
Strong City, Kansas
Clifton, Kansas
Blue Rapids, Kansas
Solomon, Kansas
Wakefield, Kansas
Overbrook, Kansas
Americus, Kansas
Pomona, Kansas
Riley, Kansas
Onaga, Kansas
Alma, Kansas

Meriden, Kansas
Waverly, Kansas
Olpe, Kansas
Milford, Kansas
Hartford, Kansas
Maple Hill, Kansas
White City, Kansas
Melvern, Kansas
Eskridge, Kansas
Hope, Kansas
Alta Vista, Kansas
Dwight, Kansas
Quenemo, Kansas
Richmond, Kansas
Neosha Rapids, Kansas
Cuba, Kansas
Vassar Lake/Osage, Kansas
Woodbine, Kansas
McFarland, Kansas
Lyons Co., Kansas
Havensville, Kansas
Reading, Kansas
Tamps, Kansas
Williamsburg, Kansas
Harveyville, Kansas
Morganville, Kansas
Lake Wabaunsee, Kansas
Palmer, Kansas
Barnes, Kansas
Paxico, Kansas
Lehigh, Kansas
Walton, Kansas
Durham, Kansas
Green, Kansas

Kentucky

Hickman, Kentucky
Hazel, Kentucky

Louisiana

Kentwood, Louisiana

Missouri

Slater, Missouri
Gallatin, Missouri
Memphis, Missouri
Princeton, Missouri
Smithton, Missouri

Cass Co., Missouri
Green Castle, Missouri
Greentop, Missouri
Hallsville, Missouri
New Bloomfield, Missouri
Novinger, Missouri
Sturgeon, Missouri
Higbee, Missouri

Mississippi

Canton, Mississippi
Winona, Mississippi
Lexington, Mississippi
Iuka, Mississippi
Calhoun City, Mississippi
Charleston, Mississippi
Sumner, Mississippi
Itta Benna, Mississippi
Poplarville, Mississippi
Eupora, Mississippi
Monticello, Mississippi
Shelby, Mississippi
Tylertown, Mississippi
Mound Bayou, Mississippi
Prentiss, Mississippi
Hickory Flat, Mississippi
Coffeerville, Mississippi
Taylorsville, Mississippi
Lake, Mississippi
Lumberton, Mississippi
Macedonia, Mississippi
Ashland, Mississippi
Marshall Co., Mississippi
N.A.S. Meridian, Mississippi
Richton, Mississippi
Dekalb, Mississippi
Leakesville, Mississippi
Sumrall, Mississippi
Chunky, Mississippi
Shubuta, Mississippi
Bassfield, Mississippi
Benton, Mississippi
Stateline, Mississippi
Mosselle, Mississippi
Pachuta, Mississippi

Nebraska

Central City, Nebraska
Wymore, Nebraska
Albion, Nebraska
Burwell, Nebraska
Fullerton, Nebraska
Stromsburg, Nebraska
Grand Island, Nebraska
Genoa, Nebraska
Osceola, Nebraska
Waco, Nebraska
Deshler, Nebraska
Newman Grove, Nebraska
Peru, Nebraska
Saint Edward, Nebraska
Sargent, Nebraska
Humphrey, Nebraska
Shelby, Nebraska
Nelson, Nebraska
Ceresco, Nebraska
Valparaiso, Nebraska
Silver Creek, Nebraska
Cedar Rapids, Nebraska
Bellwood, Nebraska
Beaver Crossing, Nebraska
Chester, Nebraska
Meadow Grove, Nebraska
Malcolm, Nebraska
Polk, Nebraska
Arcadia, Nebraska
North Loup, Nebraska
Western, Nebraska
Scotia, Nebraska
Gresham, Nebraska
Duncan, Nebraska
Bradshaw, Nebraska
Glenvil, Nebraska
Garland, Nebraska
Ulysses, Nebraska
Brainard, Nebraska
Raymond, Nebraska
Taylor, Nebraska
Staplehurst, Nebraska
Byron, Nebraska
Benedict, Nebraska

South Carolina

Cross Hill East (Mountville), South Carolina
Greenville (SE) Co., South Carolina
Laurens SE, South Carolina
McCormick Co., South Carolina

South Dakota

Pennington/Rimrock Hwy, SD, South Dakota
Hill City, South Dakota
Newell, South Dakota
Boulder Canyon, South Dakota
Whitewood, South Dakota

Tennessee

Hazel, Kentucky

Texas

Franklin, Texas
Calvert, Texas
Bremond, Texas
Lott, Texas
Crawford, Texas
Chilton, Texas